



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2017-0573; FRL-9970-86-Region 9]

Approval of California Air Plan Revisions, Mojave Desert Air Quality Management

District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Mojave Desert Air Quality Management District (MDAQMD) portion of the California State Implementation Plan (SIP). This revision concerns emissions of volatile organic compounds (VOCs) from marine and pleasure craft coating operations. We are proposing to approve a local rule to regulate these emission sources under the Clean Air Act (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by **[Insert date 30 days after the date of publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2017-0573 at <http://www.regulations.gov>, or via email to Arnold Lazarus, Rulemaking Office at lazarus.arnold@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be removed or edited

from Regulations.gov. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the “**FOR FURTHER INFORMATION CONTACT**” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Arnold Lazarus, EPA Region IX, (415) 972 3024, lazarus.arnold@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the EPA.

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I. The State's Submittal

A. *What rule did the State submit?*

Table 1 lists the rule addressed by this proposal with the date that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1 - SUBMITTED RULE

Local Agency	Rule #	Rule Title	Amended	Submitted
MDAQMD	1106	Marine and Pleasure Craft Coating Operations	10/24/2016	02/24/2017

On August 2, 2017, the EPA determined that the submittal for MDAQMD Rule 1106 met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. *Are there other versions of this rule?*

We approved an earlier version of Rule 1106 into the SIP on July 16, 2008 (73 FR 40754). The MDAQMD adopted revisions to the SIP-approved version on October 24, 2016 and

CARB submitted them to us on February 24, 2017.

C. *What is the purpose of the submitted rule revision?*

VOCs help produce ground-level ozone, smog and particulate matter, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions. Rule 1106 was revised primarily to implement reasonably available control technology (RACT) recommendations to strengthen the overall VOC capture and control efficiency from 85 to 90%, and to generally adopt more stringent VOC content limits for marine and pleasure craft coatings. The EPA's technical support document (TSD) has more information about this rule.

II. The EPA's Evaluation and Action

A. *How is the EPA evaluating the rule?*

SIP rules must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193).

Generally, SIP rules must require RACT for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each major source of VOCs in ozone nonattainment areas classified as moderate or above (see CAA section 182(b)(2)). The MDAQMD regulates an ozone nonattainment area classified as Severe for the 1997 and the 2008 8-Hour Ozone National Ambient Air Quality Standards (40 CFR 81.305). In addition, Rule 1106 regulates activities covered by two different CTGs: *Control Techniques Guidelines for*

Shipbuilding and Ship Repair Operations (61 FR 44050), August 1996, and *Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings* EPA-453/R-08-003, September 2008. Therefore, this rule must implement RACT.

Guidance and policy documents that we use to evaluate enforceability, revision/relaxation and rule stringency requirements for the applicable criteria pollutants include the following:

1. "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).
3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).
4. "Control Techniques Guidelines for Shipbuilding and Ship Repair Operations" (61 FR 44050), August 27, 1996.
5. "Alternative Control Techniques Document: Surface Coating Operations at Shipbuilding and Ship Repair Facilities EPA 453/R-94-032, April 1994.
6. "Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings" EPA-453/R-08-003, September 2008.

B. *Does the rule meet the evaluation criteria?*

Rule 1106 adds several new marine and pleasure craft specialty coating categories, lowers the VOC content limit of other specialty coating categories, and lowers the VOC content limit for solvents used for surface preparation. Under the District's October 23, 2006 SIP-

approved rule, some of these new specialty coating categories such as Topcoats, Pleasure Craft, One Component, and Two Component, would have been covered under the “General Use” category and been subject to a more stringent VOC limit when compared to the October 24, 2016 amended rule. The EPA reviewed the potential gross emissions increase associated with the new specialty coating limits and estimates that total VOC emissions associated with these coatings may increase by approximately 250 pounds per year or approximately 0.001% of MDAQMD’s VOC inventory. We conclude that this is a negligible increase and would not impact attainment. Because the potential gross increase is minimal, we have not calculated the net impact of the rule revisions, including the emission reductions from strengthened limits. Our evaluation shows this rule is consistent with CAA requirements and relevant guidance regarding enforceability, RACT, and SIP revisions. The TSD has more information on our evaluation.

C. *EPA recommendations to further improve the rule*

The TSD describes additional rule revisions that we recommend for the next time the local agency modifies the rule.

D. *Public comment and proposed action*

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted rule because we believe it fulfills all relevant requirements. We will accept comments from the public on this proposal until **[Insert date 30 days after date of publication in the Federal Register]**. If we take final action to approve the submitted rule our final action will incorporate this rule into the federally enforceable SIP.

III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that

includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the MDAQMD rule described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through www.regulations.gov and at the EPA Region IX Office (please contact the person identified in the “FOR FURTHER INFORMATION CONTACT” section of this preamble for more information).

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);

- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference
Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic
compounds.

AUTHORITY: 42 U.S.C. 7401 *et seq.*

Dated: November 6, 2017.

Alexis Strauss,
Acting Regional Administrator,
Region IX.

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